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OFFICE OF PETITIONS

In re Application of
Bistrup et al.
Application No. 09/645,078
Filed: August 23, 2000
Attorney Docket No. 06510-107CIP2

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: LETTER REGARDING PTA
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This decision is in response to Applicants' letter mailed August 23, 2004 requesting that the Office review the PTA determination at the time of the notice of allowance. Applicants' request that the Office review the PTA determination because applicants believe that too much time was awarded in the determination. The office thanks applicants for their good faith and candor in bringing this matter to the attention of the Office.

Applicants letter requesting reconsideration of PTA as being too much is **GRANTED**. The Office will adjust the PTA at the time of the notice of allowance to be adjusted to be four hundred and twelve (412) days.

A review of the Office history reveals that applicants are correct in that the Office failed to reduce the PTA for applicants' failure to engage in reasonable efforts to conclude the prosecution of the application by submitting the RCE on April 26, 2004. The submission of the RCE is considered a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(b). The reduction should have been for a period of 92 days.¹ However, the Office assessed a sixty-nine (69) day delay for an overdue three month reply to the Notice to file Missing Parts. However, a review of the file reflects that response was filed on December 18, 2003. Because the response was filed within three months of the mailed notice, applicant should not have been assessed any delay in responding to the missing parts notice.² Accordingly, the PTA determination should be reduced by a period of twenty-three days and the correct determination

¹The Office mailed the final rejection on August 26, 2003 and did not file a response to the final rejection until February 26, 2004. The reduction began on November 27, 2004 and ended on February 26, 2004.

²Applicants have three months to reply regardless of a shortened statutory period set. Accordingly, the notice was mailed on October 17, 2003 and replied to on December 18, 2003. No applicant delay.

at the time of the mailed notice of allowance is four hundred and thirteen days (504-92=412).³

The Office will adjust the PTA determination to reflect this decision. A copy of the adjusted PAIR calculation will accompany this decision.

After mailing of this decision, the Office will forward this application to the Office of Patent Publication for a prompt issuance of this application. The Office notes that any delays in failing to issue such application within four months of the submission of the issue fee and other requirements being satisfied will be added in the determination occurring at the time of the issuance of the application.

Because the applicants are bring this discrepancy to the attention of the Office, the Office will not assess any fee for applicants' good faith and candor.

Any questions concerning this decision should be directed to Kery A. Fries, Senior Legal advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.

Kery A. Fries
pf

Karin Ferriter,
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy.

³The office delay for a period of five hundred and four (504) days for failing to initially act upon the application with fourteen months of the filing date of the application. See 37 CFR 1.702(a)(1).

Day : Thursday
Date: 6/23/2005

Time: 11:37:37

PALM INTRANET**PTA Calculations for Application: 09/645078**

Application Filing Date:	08/23/2000	PTO Delay (PTO):	504
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	69
Post-Issue Petitions:	0	Total PTA (days):	412
PTO Delay Adjustment:	-23		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
53	06/23/2005	ADJUSTMENT OF PTA CALCULATION BY PTO		23	
32	05/18/2004	MAIL NOTICE OF ALLOWANCE			
31	05/17/2004	ISSUE REVISION COMPLETED			
30	05/17/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
29	05/17/2004	CASE DOCKETED TO EXAMINER IN GAU			
28	05/14/2004	NOTICE OF ALLOWABILITY			
27	02/26/2004	WORKFLOW - REQUEST FOR RCE - BEGIN			
26	02/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	03/05/2004	DATE FORWARDED TO EXAMINER			
24	02/26/2004	REQUEST FOR CONTINUED EXAMINATION (RCE)			
23	03/05/2004	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
22	02/26/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	10/15/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	03/04/2004	CORRESPONDENCE ADDRESS CHANGE			
19	08/26/2003	MAIL FINAL REJECTION (PTOL - 326)			
18	08/25/2003	FINAL REJECTION			
17	08/25/2003	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
16	08/21/2003	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
15	06/19/2003	DATE FORWARDED TO EXAMINER			
14	06/11/2003	RESPONSE AFTER NON-FINAL ACTION			

13	03/11/2003	MAIL NON-FINAL REJECTION	504		-1
12	03/10/2003	NON-FINAL REJECTION			
11	09/30/2002	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
10	01/23/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
9	12/19/2002	PRELIMINARY AMENDMENT			
8	02/02/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	06/06/2001	CASE DOCKETED TO EXAMINER IN GAU			
6	04/02/2001	APPLICATION DISPATCHED FROM OIPE			
5	03/27/2001	APPLICATION IS NOW COMPLETE		69	4
4	10/17/2000	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED			
3	10/12/2000	CORRESPONDENCE ADDRESS CHANGE			
2	09/14/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/23/2000	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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